

## REQUEST FOR COUNCIL ACTION

**SUBJECT:** Reimbursement Agreement for Three Forks Phase 7

**SUMMARY:** The developer desires to develop property located at 8410 S. 6000 W. As a condition of the development the developer is required to and proposes to construct and install certain "Eligible Public Improvements", consisting of portions of a roundabout intersection and the upsizing of various waterlines. Per West Jordan City Code the proportionate share of the cost for public improvements should be allocated to all the properties creating the need for the public improvements.

**FISCAL  
IMPACT:** None

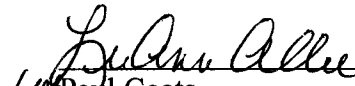
**STAFF RECOMMENDATION:**  
Staff recommends that City Council approve the agreement as prepared.

**MOTION RECOMMENDED:**  
I move we approve Resolution 14-137 authorizing the Mayor to execute the agreement between the City of West Jordan and Peterson Development Company, LLC for Three Forks Phase 7.

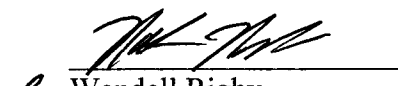
**Prepared by:**

  
LuAnn Allie  
Dev Coordinator


**Reviewed by:**

  
for Paul Coats  
ODA Manager

**Reviewed by:**

  
for Wendell Rigby  
Public Works Director

**Reviewed as to legal form:**

  
Jeff Robinson  
City Attorney

**Recommended by:**

  
Richard L. Davis  
City Manager

## **BACKGROUND DISCUSSION:**

Peterson Development is developing 15.587 acres at approximately 8410 S. 6000 W known as Three Forks Phase 7. As a condition of the development approval, the Developer is required to construct and install certain public improvements. The improvements include portions of 8600 South, 6000 West and a roundabout intersection where the two streets intersect.

Per City Code Title 8, Chapter 3, Article B a proportionate share of the cost should be allocated to all the properties creating the need for or benefiting from the public improvements. Therefore, the developer will only be required to construct the north half of 8600 South Street, and the City will construct the south half adjacent to Ron Wood Park. The developer has also requested reimbursement that may be authorized if the improvements for the roundabout are added to the City's capital facilities strategic plan within the next four years.

The developer understands that the Eligible Public Improvements identified in the agreement are the only improvements for which reimbursement may be made, that the improvements are not currently on the City's capital facilities strategic plan as would be required, and that reimbursement will not be available if the improvements are not added to the plan. Also, any deviation from the approved engineering construction drawings may, in addition to other things, affect the ability of the developer to receive reimbursement.

If the improvements are added to the City's capital facilities strategic plan, the maximum reimbursement amount for the Eligible Public Improvements will be the lesser of: (1) the actual costs of Eligible Public Improvements as evidenced by documentation submitted or (2) the estimated costs of the Eligible Public Improvements as set forth in the Exhibits of the proposed agreement, or as said sum is amended under the reimbursement agreement. The reimbursement agreement will terminate ten (10) years following the effective date of the Reimbursement Agreement or at such earlier time as the cumulative reimbursement amount reaches the maximum reimbursement.

**THE CITY OF WEST JORDAN, UTAH**

A Municipal Corporation

RESOLUTION NO. 14-137

**A RESOLUTION AUTHORIZING EXECUTION BY  
THE MAYOR OF A REIMBURSEMENT AGREEMENT  
BETWEEN THE CITY OF WEST JORDAN AND PETERSON  
DEVELOPMENT COMPANY, LLC FOR THREE FORKS PHASE 7**

Whereas, the City Council of the City of West Jordan has reviewed the Reimbursement Agreement for the Three Forks Phase 7 Subdivision (a copy of which is attached); and

Whereas, the City Council of the City of West Jordan has determined that the Reimbursement Agreement is acceptable for the purposes set forth therein and desires that the Reimbursement Agreement for Three Forks Phase 7 be executed by the Mayor; and

Whereas, the Mayor is authorized to execute the agreement.

NOW, THEREFORE, IT IS RESOLVED BY THE CITY COUNCIL OF WEST JORDAN, UTAH, THAT:

Section 1. After approval as to legal form by the West Jordan City Attorney, the Mayor is hereby authorized and directed to execute the Reimbursement Agreement for Three Forks Phase 7.

Section 2. This Resolution shall take effect immediately upon passage.

Adopted by the City Council of West Jordan, Utah, this 30<sup>th</sup> day of July, 2014.

CITY OF WEST JORDAN

By: \_\_\_\_\_  
Mayor Kim V. Rolfe

ATTEST:

\_\_\_\_\_  
Melanie S. Briggs, City Clerk/Recorder

Voting by the City Council

"AYE"

"NAY"

Jeff Haaga

\_\_\_\_\_

\_\_\_\_\_

Judy Hansen

\_\_\_\_\_

\_\_\_\_\_

Chris McConnehey

\_\_\_\_\_

\_\_\_\_\_

Chad Nichols

\_\_\_\_\_

\_\_\_\_\_

Ben Southworth

\_\_\_\_\_

\_\_\_\_\_

Justin D. Stoker

\_\_\_\_\_

\_\_\_\_\_

Mayor Kim V. Rolfe

\_\_\_\_\_

\_\_\_\_\_

## REIMBURSEMENT AGREEMENT THREE FORKS PHASE 7

This Agreement is entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2014, by and between Peterson Development Company, L.L.C., a Utah limited liability company (“Developer”) and the City of West Jordan, a municipality and political subdivision of the State of Utah (the “City”). Developer and City are collectively referred to herein as “Parties,” and each may be referred to individually as “Party.”

### RECITALS

A. Developer desires to develop certain property located within the corporate boundaries of the City of West Jordan, Salt Lake County, Utah, as reflected in **Exhibit “A”** (the “Property”).

B. As a condition of development approval, Developer is required to and proposes to construct and install certain “Eligible Public Improvements” as defined in Title 8, Chapter 3, Article B of the West Jordan City Code, which Eligible Public Improvements are identified on **Exhibit “B”** attached hereto.

C. Because of an impending City capital project, Developer is required to construct only the north half of 8600 South Street adjacent to Ron Wood Park.

D. The Parties agree that the Eligible Public Improvements are: lawfully required as a condition of development approval; reasonably anticipated to serve future development; located off-site or will create additional or excess capacity beyond the proportionate share attributable to Developer to reasonably service the proposed development at the City’s adopted level of service standards.

E. The City has adopted a policy, as set forth in Title 8, Chapter 3, Article B of the West Jordan City Code that the proportionate share of the cost for public improvements should be allocated to all the properties creating the need for or benefiting from the public improvements. Reimbursements are authorized by Title 8, Chapter 3, Article B for the purpose of implementing the policies stated therein.

F. Some of the Eligible Public Improvements may become System Improvements, as defined in section Title 8, Chapter 3, Article B of the West Jordan City Code, for which the Developer may receive partial reimbursement from Impact Fees collected by the City. City and Developer desire to identify those Eligible Public Improvements that are potentially System Improvements and to clarify the portion of such Eligible Public Improvements for which reimbursement may be made available through Impact Fees.

G. The Eligible Public Improvements that are potential System Improvements do not qualify for an impact fee reimbursement agreement at this time, because they are not included in the City’s capital facilities strategic plan as is required by Title 8, Chapter 3, Article B of the West Jordan City Code. If some or all of the Eligible Public Improvements become System

Improvements because they are included in the City's capital facilities strategic plan within four (4) years after the effective date of this Agreement, impact fee reimbursement will be authorized by the City as set forth herein, and the Parties will execute an amendment to this Agreement for that purpose.

H. This Reimbursement Agreement is for Phase 7 of a multi-phase project.

**NOW, THEREFORE**, in consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. Incorporation of Recitals and Exhibits. The foregoing Recitals and all Exhibits hereto are hereby incorporated by reference into this Agreement and are made a part hereof.
2. Developer and City Obligations.
  - a. Developer shall, at its own expense and in accordance with the final approved subdivision plat, final approved development plan, final approved site plan(s), City standards and approved engineering construction drawings (collectively, the "Improvement Regulations"), construct and install or cause to be constructed and installed the Eligible Public Improvements identified in this Agreement and in said Improvement Regulations.
  - b. Developer shall, at its own expense, acquire necessary real property interests for the construction and installation of the Eligible Public Improvements and shall dedicate the acquired real property interests and Eligible Public Improvements to City, in a form approved and acceptable to the City Attorney.
  - c. Developer understands and agrees that deviation from the approved engineering construction drawings may, in addition to other things, affect the ability of Developer to receive reimbursement. The City will consider revisions to Eligible Public improvements and the costs therefore if received by the City in accordance with the Improvement Regulations and sufficiently in advance of construction.
  - d. Developer understands and agrees that the Eligible Public Improvements identified herein are the only improvements for which reimbursement will be made available with respect to the development of the Property.
  - e. Developer shall construct only the north half of 8600 South Street adjacent to Ron Wood Park and shall not be required to construct the south half.
  - f. City agrees to sign the subdivision plat dedicating the south half of 8600 South to the city.

3. Reimbursement Payments.

- a. The City agrees that it shall timely consider and pursue in good faith the addition of the portion of the Eligible Public Improvements identified as "Potential System Improvements" on **Exhibit B** to the City's capital facilities strategic plan within four (4) years after the effective date of this Agreement. The City shall make such consideration with respect to each of the City's proposed amendments to the capital facilities strategic plan considered during such four (4) year time period.
- b. If the Potential System Improvements are added to the City's capital facilities strategic plan, City and Developer shall execute an amendment to this Agreement to provide for the City's reimbursement of Developer for the cost of the Potential System Improvements. After such amendment, Impact Fee reimbursements for the Potential System Improvements shall be paid to the party entitled thereto in accordance with Title 8, Chapter 3, Article B of the West Jordan City Code as the same exists as of the date of this Agreement, after higher priority capital facilities projects have been adequately funded.
- c. No reimbursement from Impact Fees shall be due to Developer unless and until:
  - i) The Potential System Improvements are added to the capital facilities strategic plan as set forth above;
  - ii) Developer has completed construction and installation of the applicable Eligible Public Improvements, the City has inspected and approved the Eligible Public Improvements, and the real property and Public Improvements have been dedicated to the City by lawful conveyance through plat, warranty deed or other method reasonably acceptable to the West Jordan City Attorney;
  - iii) Developer has submitted the documentation required by this Reimbursement Agreement evidencing actual costs of the Eligible Public Improvements; and
  - iv) Such reimbursement is required by the terms of this Reimbursement Agreement.

4. Reimbursement Amount.

- a. Maximum Reimbursement.
  - i) The maximum reimbursement for the Eligible Public Improvements shall be the lesser of: (1) the actual costs of Eligible Public Improvements as evidenced by the documentation submitted in accordance with the terms of this Reimbursement Agreement; or (2) the estimated costs of the Eligible Public Improvements as set forth in the attached **Exhibits**, or as said sum is amended under the terms of this Reimbursement Agreement.

ii) "Actual Costs" means the costs actually incurred or expended to construct or install the Eligible Public Improvements, which costs shall include the cost of the real property, and disbursements to general contractors for construction labor and materials. Actual Costs shall not include financing costs, interest or expenses incurred or expended for the acquisition of real property, except the purchase price.

iii) The maximum reimbursement for Eligible Public Improvements, shown in the **Exhibits**, are estimates only and shall, if actual costs are less, be decreased in accordance with actual costs. Estimated costs shall not be increased, except by written amendment to this Reimbursement Agreement in accordance with the amendment provisions set forth herein. In order for an amendment to be considered by City, change orders and similar situations and circumstances must have been pre-approved, in writing, by the City.

iv) The maximum reimbursement for acquisition of real property interests shall be 115% of a City-approved MAI-certified appraisal, provided to City at Developer's expense. In no event shall the reimbursement for real property acquisition exceed the lesser of: (1) the actual cost of the real property; or (2) 115% of the appraisal.

v) Developer shall provide to the City documentation, acceptable to the City Attorney, demonstrating the actual costs incurred by the Developer for the acquisition, construction and installation of Eligible Public Improvements, including acquisition of real property interests. Documentation shall include but not be limited to: receipts, checks, vouchers, bills, statements, bid documents, change orders, payment documents, and all other information necessary for the City to determine the actual costs incurred. Developer's failure to submit the required documentation shall result in rejection of the undocumented claimed amount.

b. Interest. No interest shall be included in the amount of the reimbursement, and no interest shall be paid to developer by the City or any other person on any amounts due under this Reimbursement Agreement.

5. Ownership of Eligible Public Improvements. City shall own the Eligible Public Improvements in fee title absolute, together with the lands and rights-of-way dedicated to the City. Ownership shall be with the City upon: (i) completion of construction of the Eligible Public Improvements by Developer; (ii) inspection, approval and written acceptance by the City. The City will assume responsibility for all maintenance, repair and replacement of the Eligible Public Improvements once they are accepted by the City.

6. Term of Agreement. This Reimbursement Agreement shall terminate ten (10) years following the effective date of the Reimbursement Agreement or at such earlier time as the cumulative reimbursement amount reaches the maximum reimbursement. No reimbursement shall be due or payable after said ten (10) year period, except reimbursement from Impact Fees for Eligible System Improvements, which shall in no event exceed the maximum reimbursement.



7. Effect of Agreement. Nothing in this Reimbursement Agreement shall be construed to relieve Developer of any obligations imposed on Developer by Federal, State or local laws, ordinances, regulations, or standards. The terms and conditions of this Reimbursement Agreement shall be in addition to the terms and conditions of other development agreement(s), improvement construction and guarantee agreements, and other agreements applicable to the Property.

8. Waiver and Covenant Not to Sue. Developer specifically agrees to accept the reimbursement specified herein as full and final payment of all claims against the City or any Benefited Property with respect to the Eligible Public Improvements. Developer hereby waives any rights or claims against the City for reimbursement of any kind or source with respect to the Eligible Public Improvements, other than as set forth herein.

9. Assignment. Neither the Reimbursement Agreement nor any of its provisions, terms or conditions may be assigned to any other party, individual or entity without assigning the rights as well as the responsibilities and without the prior written consent of City.

10. Entire Agreement. This Reimbursement Agreement contains the entire agreement and understanding of the parties with respect to reimbursement to Developer for the Eligible Public Improvements and supersedes all prior written or oral agreements, representations, promises, inducements, or understandings between the parties with regard to any reimbursements to Developer from the City with respect to the Eligible Public Improvements.

11. Binding Effect. This Reimbursement Agreement shall be binding upon the parties hereto and their respective officers, employees, representatives, agents, members, successors, and assigns.

12. Validity and Severability. In the event a court, governmental agency, or regulatory agency with proper jurisdiction determines that any provision of this Agreement is unlawful, that provision shall terminate. If a provision is terminated, but the parties can legally, commercially, and practicably continue to perform this Agreement without the terminated provision, the remainder of this Agreement shall continue in effect.

13. Amendment. This Agreement may be amended only in a writing signed by the parties hereto.

14. Controlling Law, Jurisdiction and Venue. This Reimbursement Agreement shall be governed by the laws of the State of Utah. Venue shall be in Salt Lake County, Utah.

**IN WITNESS WHEREOF**, the parties hereto have executed this Reimbursement Agreement as of the day and year first hereinabove written.

[Signatures appear on next two pages.]

**CITY:**

WEST JORDAN CITY, a municipality and  
political subdivision of the State of Utah

ATTEST:

By: \_\_\_\_\_  
Name: Kim V. Rolfe, Mayor

\_\_\_\_\_  
City Clerk

Date: \_\_\_\_\_

**CITY ACKNOWLEDGEMENT**

STATE OF UTAH                    )  
  : ss.  
County of Salt Lake            )

On this \_\_\_\_ day of \_\_\_\_\_, 2014, before the undersigned notary public in and for the said state, personally appeared Kim V. Rolfe, known or identified to me to be the Mayor of West Jordan City and the person who executed the foregoing instrument on behalf of said City and acknowledged to me that said City executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the day and year first above written.

\_\_\_\_\_  
Notary Public for Utah

**APPROVED AS TO LEGAL FORM**  
West Jordan City Attorney

By: Daniel Sloan Date: 7-22-14

**DEVELOPER:**

Peterson Development Company, L.L.C.,  
a Utah limited liability company

By: [Signature]  
Name: JUSTIN V. PETERSON  
(Print or Type)

Title: Manager

Date: 7/22/2014

**DEVELOPER ACKNOWLEDGEMENT**

STATE OF UTAH                    )  
  : ss.  
County of Salt Lake            )

On this 22 day of July, 2014, before the undersigned notary public in and for the said state, personally appeared Justin V. Peterson known or identified to me to be a Manager of Peterson Development Company, L.L.C., and the person who executed the foregoing instrument and acknowledged to me that said company executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the day and year first above written.

[Signature]  
Notary Public for Utah

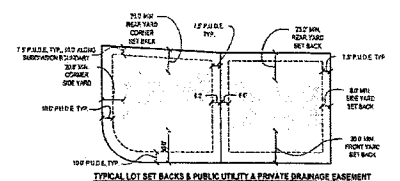
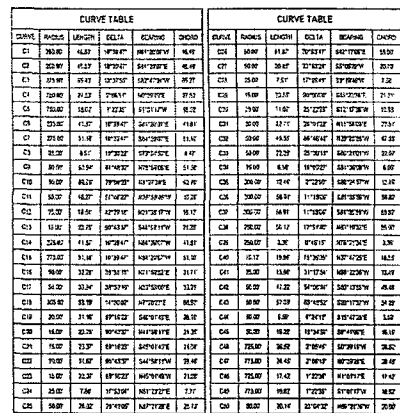


Reimbursement Agreement  
Three Forks Phase 7

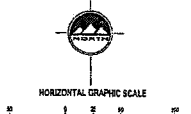
Exhibit "A"  
To  
Reimbursement Agreement  
(Description of the Property)

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**PROPOSED BOUNDARY  
OF  
THREE FORKS PHASE 7**



- [illegible]



- [illegible]



**SALT LAKE CITY**  
45 West TECO South, Ste. 500  
Sandy, UT 84069  
Phone: 801.255.8527  
Fax: 801.256.8849

**LAYTON**  
Phone: 801.547.1105

**TOOELE**  
Phone: 435.343.5599

**CEDAR CITY**  
Phone: 435.336.1001

**DEVELOPER:**  
PETERSON DEVELOPMENT  
225 SOUTH 300 EAST #200  
SALT LAKE CITY, UT 84115

**CONTACT:**  
JUSTIN PETERSON  
PH: 505 222-2222

RECORDED # \_\_\_\_\_  
STATE OF UTAH, COUNTY OF SALT LAKE, RECORDED AND FILED AT THE REQUEST OF \_\_\_\_\_  
DATE \_\_\_\_\_ TIME \_\_\_\_\_ BOOK \_\_\_\_\_ PAGE \_\_\_\_\_

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Reimbursement Agreement  
Three Forks Phase 7

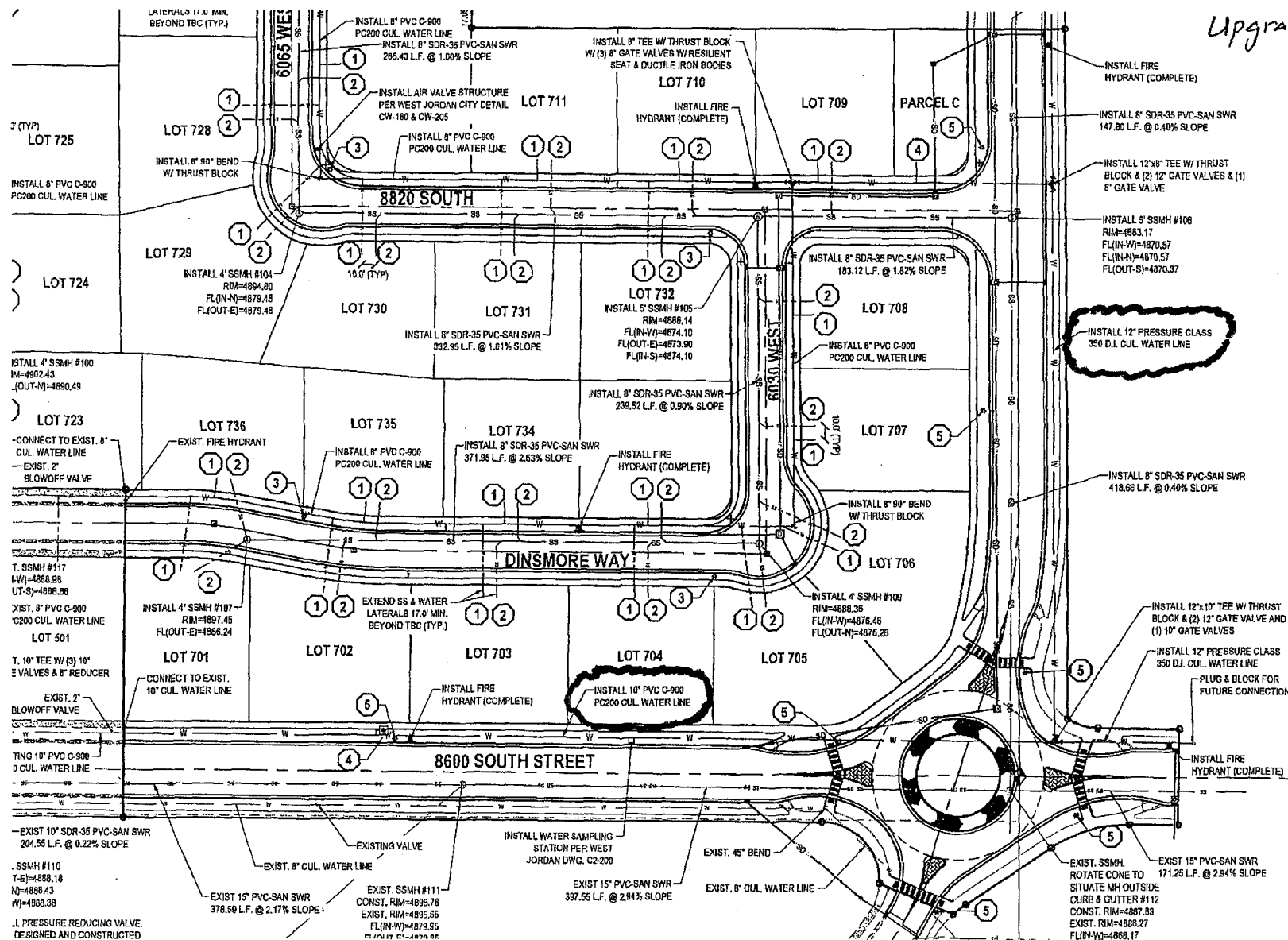
Exhibit "B"  
To  
Reimbursement Agreement  
(Improvements)

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# Exhibit B

## Three Forks Phase 7 Improvements

8600 S 6000 W & Round-About & Water Upgrades		Project Improvements				Standard Improvements		Reimbursement
		QUANTITY	U/M	UNIT PRICE	TOTAL PRICE	QUANTITY	PRICE	TOTAL \$
1	Type "E" Curb Wall (Roundabout & Islands)	380	LF	\$21.85	\$8,303.00	0	\$0.00	\$8,303.00
2	Type "F" Curb (Roundabout)	264	LF	\$21.85	\$5,768.40	0	\$0.00	\$5,768.40
3	Plowable End Sections (Roundabout)	2	EA	\$1,265.00	\$2,530.00	0	\$0.00	\$2,530.00
4	8" Stamped Concrete (Roundabout) w/ Roadbase	2000	SF	\$12.90	\$25,800.00	0	\$0.00	\$25,800.00
5	Handicap Ramps W/ Inserts	8	EA	\$563.50	\$4,508.00	4	\$2,254.00	\$2,254.00
6	Concrete Crosswalk	2	EA	\$2,300.00	\$4,600.00	0	\$0.00	\$4,600.00
7	Bike Ramp	2	EA	\$425.00	\$850.00	0	\$0.00	\$850.00
8	Signs	9	EA	\$345.00	\$3,105.00	2	\$690.00	\$2,415.00
9	Striping	1	EA	\$3,500.00	\$3,500.00	0	\$0.00	\$3,500.00
10	Landscaping Round About - shrubs, topsoil, mulch	1	EA	\$4,500.00	\$4,500.00	0	\$0.00	\$4,500.00
11	Sprinklers	1	EA	\$3,000.00	\$3,000.00	0	\$0.00	\$3,000.00
12	12" DI Water Line	520	EA	\$57.50	\$29,900.00	0	\$0.00	\$29,900.00
13	10" C-900 Water Line	765	EA	\$33.47	\$25,604.55	0	\$0.00	\$25,604.55
14	8" C-900 Water Line	0	EA	\$26.91	\$0.00	1285	\$34,579.35	-\$34,579.35
15	12" Gate Valve	1	EA	\$2,530.00	\$2,530.00	0	\$0.00	\$2,530.00
16	10" Gate Valve	2	LS	\$0.00	\$0.00	0	\$0.00	\$0.00
17	8" Gate Valve	0	LF	\$1,437.50	\$0.00	3	\$4,312.50	-\$4,312.50
18	12" X 10" Tee	1	LF	\$1,955.00	\$1,955.00	0	\$0.00	\$1,955.00
19	8" Tee	0	LF	\$948.75	\$0.00	1	\$948.75	-\$948.75
20	Engineering	1	EA	\$3,000.00	\$3,000.00	0	\$0.00	\$3,000.00
Total Reimbursement								\$86,669.35



## Upgraded Water Lines

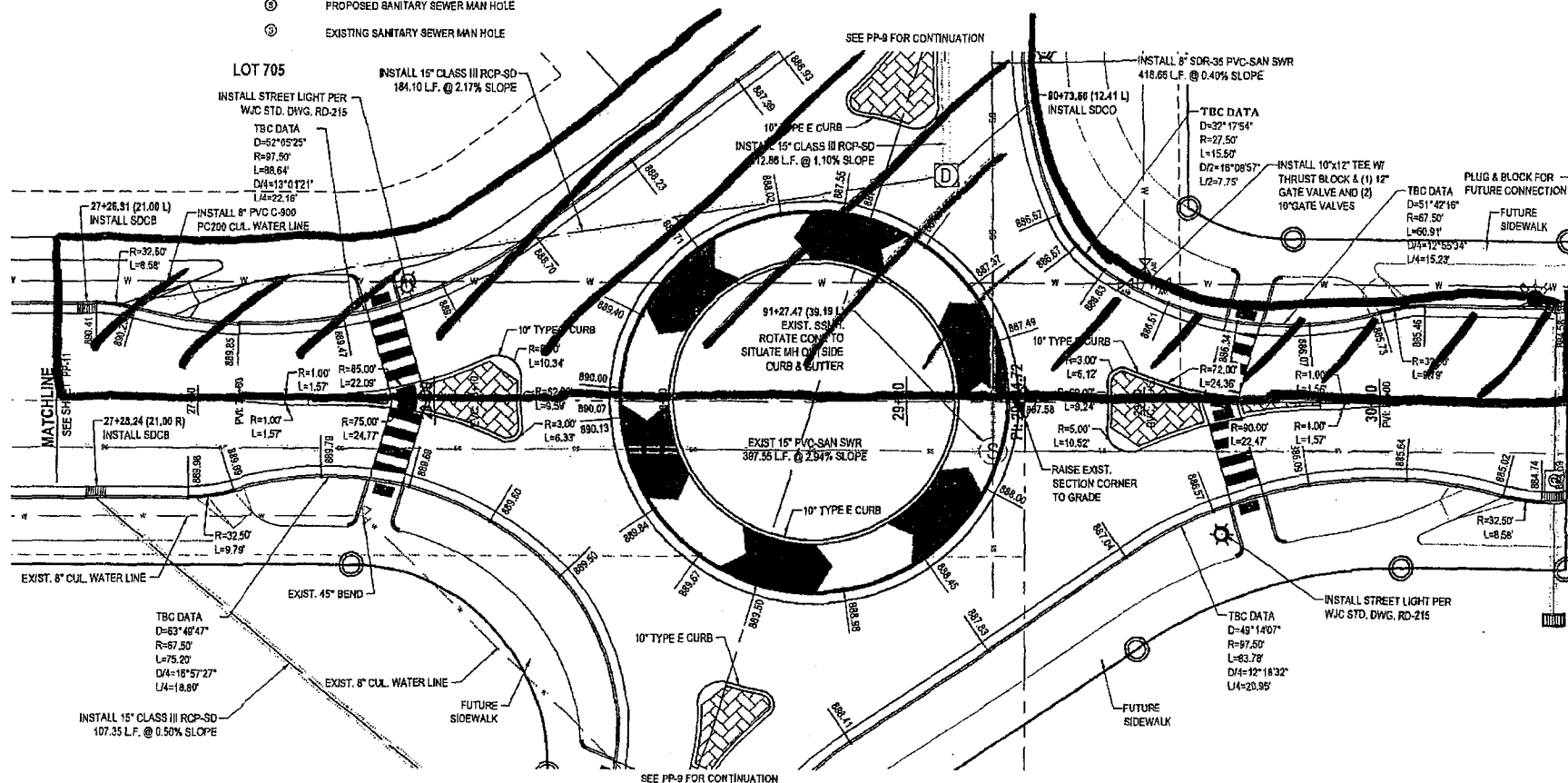


ADDITIONAL SIGNAGE INFORMATION

	PROPOSED TOP BACK OF CURB ELEVATION
	WATER VALVE
	WATER METER
	FIRE HYDRANT
	PROPOSED STORM DRAIN MAN HOLE
	EXISTING STORM DRAIN MAN HOLE
	PROPOSED STORM DRAIN CURB INLET
	EXISTING STORM DRAIN CURB INLET
	PROPOSED SANITARY SEWER MAN HOLE
	EXISTING SANITARY SEWER MAN HOLE

— W — PROPOSED WATER LINE  
 — W — EXISTING WATER LINE  
 — SD — PROPOSED STORM DRAIN LINE  
 — SD — EXISTING STORM DRAIN LINE  
 — SS — PROPOSED SANITARY SEWER LINE  
 — SS — EXISTING SANITARY SEWER LINE  
 — — PROPOSED SANITARY SEWER SERVICE  
 — — PROPOSED CULINARY WATER LINE SERVICE

- City - South Half.

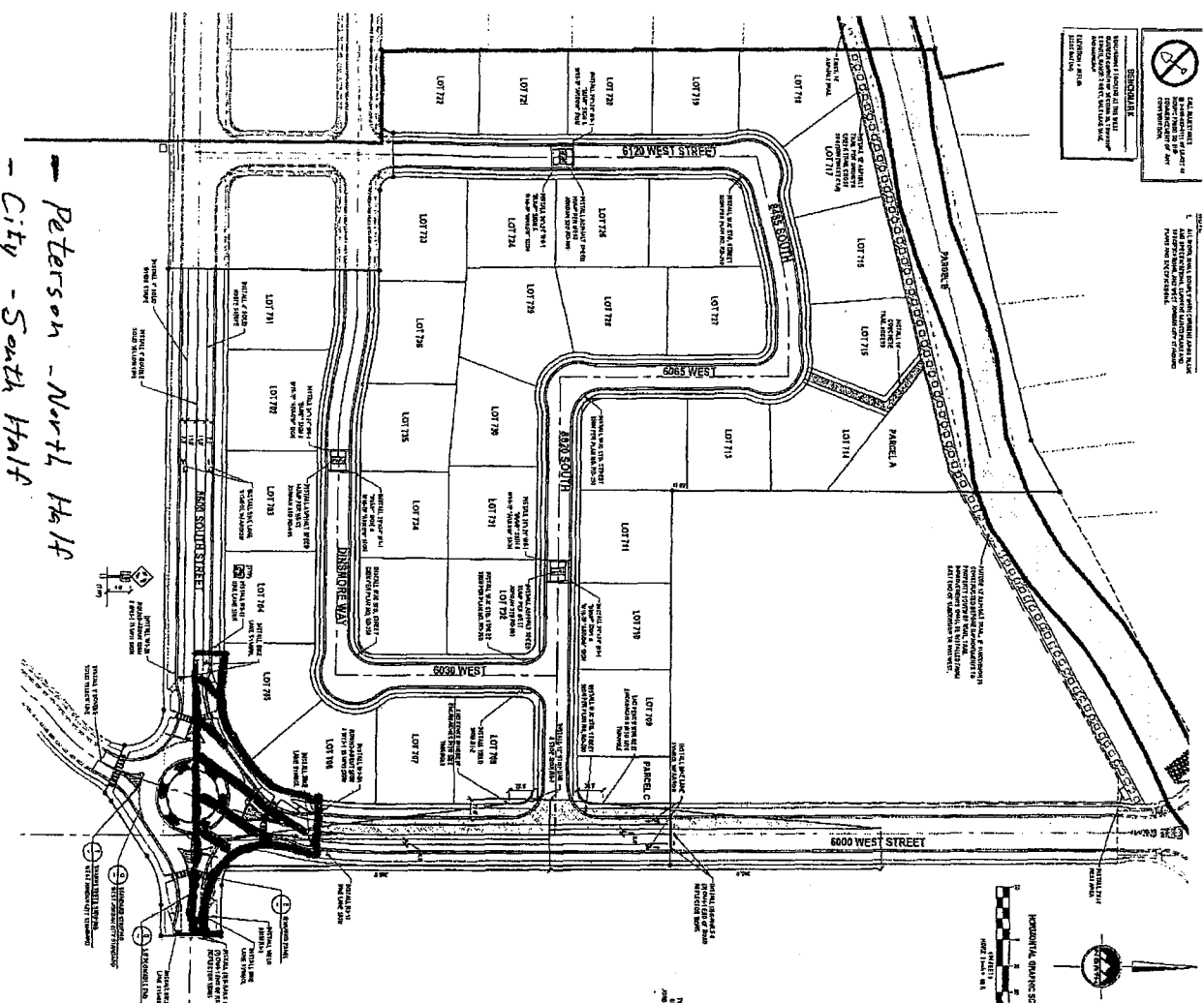


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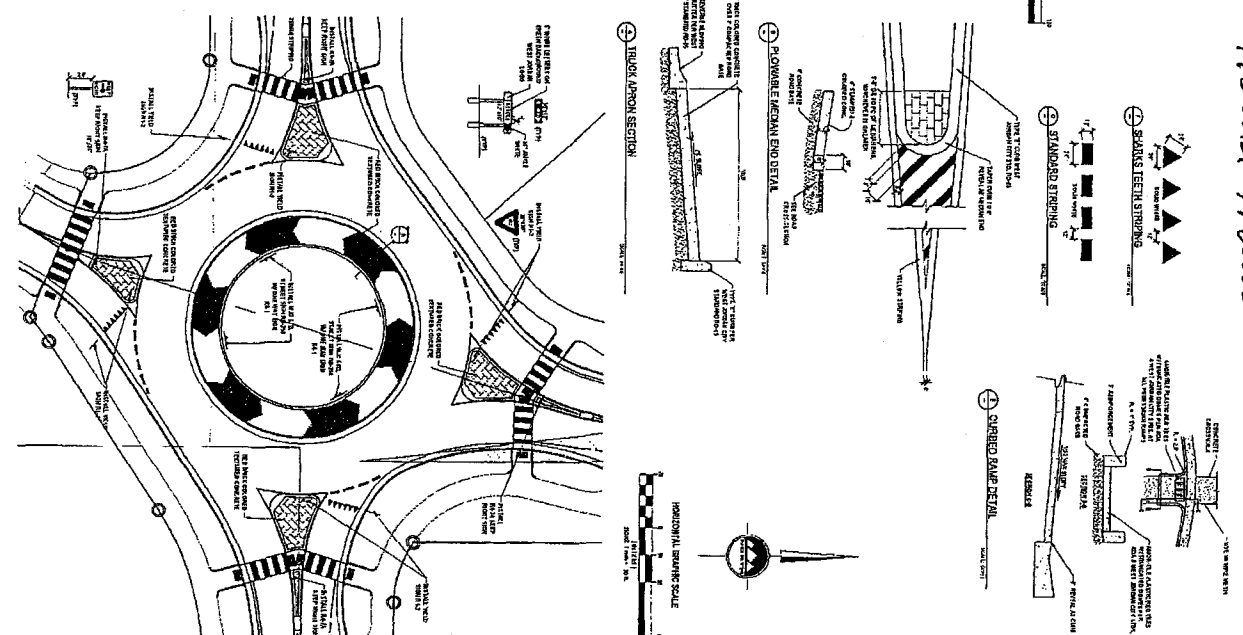



**NOTES:**  
1. ALL DISTANCES ARE IN FEET AND DECIMALS THEREOF.  
2. ALL DISTANCES ARE TO BE MEASURED ALONG THE CENTERLINE OF THE ROAD OR RAILROAD.  
3. ALL DISTANCES ARE TO BE MEASURED ALONG THE CENTERLINE OF THE ROAD OR RAILROAD.  
4. ALL DISTANCES ARE TO BE MEASURED ALONG THE CENTERLINE OF THE ROAD OR RAILROAD.

Peterson - North Half  
City - South Half



Round About





**ENSON**

**SALT LAKE CITY**  
1000 N. 1000 E.  
SALT LAKE CITY, UT 84116  
PHONE 521.1100  
FAX 521.1100

**UTAH**  
1000 N. 1000 E.  
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**UTAH**  
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SALT LAKE CITY, UT 84116  
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**THREE FORKS SUBDIVISION**  
**PHASE 7**  
8600 SOUTH 6000 WEST  
WEST JORDAN CITY, UTAH

**OVERALL SIGNAGE**  
**A STRIPAGE PLAN**

**C-3.0**